

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ARKADY RAYZ,

Plaintiff,

v.

**PROGRESSIVE AD SOLUTIONS, LLC;
PHOENIX LEGAL GROUP LLC; DOES 1
THROUGH 10,**

Defendants.

CIVIL ACTION

NO. 14-7147

MEMORANDUM OPINION

Plaintiff sued under the Telephone Consumer Protection Act of 1991, 47 U.S.C. § 227, seeking to represent a class of persons who received calls on their cellular phones generated by automatic dialing machines from entities with whom they had no prior business relationship. Defendants failed to respond to the Complaint, and a default order was entered against them on May 3, 2015. Plaintiff filed a motion seeking a default judgment as to his individual claims and a hearing for the assessment of damages. (ECF No. 7). The Court granted that motion against Defendant Progressive Ad Solutions, LLC (“Progressive”), but denied the motion as to Defendant Phoenix Legal Group, LLC. (ECF No. 9). After a hearing held this day in open Court, and based upon the evidence presented through Plaintiff’s testimony, which the Court finds credible, the Court concludes as follows:

Defendant Progressive made calls on the following dates to Plaintiff’s cellular phone using an automatic dialing machine:

- 1) May 28, 2014;
- 2) May 30, 2014;
- 3) May 30, 2014 (a second call on the same day);
- 4) December 25, 2014.

Progressive had no prior relationship with Plaintiff and no authorization from Plaintiff to contact him. The calls, therefore, were made in violation of 47 U.S.C. § 227(b)(1)(A)(iii). Accordingly, Plaintiff shall be awarded statutory damages at the rate set forth in Section 227(b)(3)(B) of \$500.00 per violation, for a total of \$2,000.00.

In light of the fact that Plaintiff testified that his cellular phone was registered on the United States Federal Trade Commission's do not call list and Progressive contacted him four times despite that listing, the Court finds that the violations were willful and awards treble damages, as provided for by Section 227(b)(3), for a total award of \$6,000.

An appropriate Order follows.

Date: June 15, 2015

BY THE COURT:

/S/WENDY BEETLESTONE, J.

WENDY BEETLESTONE, J.